

# **TWENTY-SIXTH DAY**

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**THURSDAY, FEBRUARY 27, 1997**

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## **PROCEEDINGS**

The Senate met at 11:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, West, Whitmire, Zaffirini.

Absent-excused: Truan, Wentworth.

The President announced that a quorum of the Senate was present.

Dr. Charles Greene, Pastor, Gethsemane United Methodist Church, Houston, offered the invocation as follows:

O God, the creator of all mankind, the giver of all spiritual grace, we give You thanks for this 75th Texas Legislature. We thank You for the stalking bill the Senate initiated and passed.

Give this body a sense of Your presence so that they may continue to complete the work before them. In Your name we pray. Amen.

On motion of Senator Brown and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## **LEAVES OF ABSENCE**

On motion of Senator Patterson, Senator Wentworth was granted leave of absence for today on account of important business.

On motion of Senator Brown, Senator Truan was granted leave of absence for today on account of important business.

## **CO-AUTHOR OF SENATE BILL 67**

On motion of Senator Moncrief and by unanimous consent, Senator West will be shown as Co-author of **SB 67**.

## **CO-AUTHOR OF SENATE BILL 78**

On motion of Senator Ellis and by unanimous consent, Senator West will be shown as Co-author of **SB 78**.

**CO-AUTHOR OF SENATE BILL 79**

On motion of Senator Ellis and by unanimous consent, Senator Sibley will be shown as Co-author of **SB 79**.

**CO-AUTHOR OF SENATE BILL 95**

On motion of Senator Patterson and by unanimous consent, Senator Galloway will be shown as Co-author of **SB 95**.

**CO-AUTHOR OF SENATE BILL 121**

On motion of Senator Bivins and by unanimous consent, Senator West will be shown as Co-author of **SB 121**.

**CO-AUTHOR OF SENATE BILL 313**

On motion of Senator Galloway and by unanimous consent, Senator Lindsay will be shown as Co-author of **SB 313**.

**CO-AUTHORS OF SENATE BILL 411**

On motion of Senator Nelson and by unanimous consent, Senators Armbrister, Carona, and Galloway will be shown as Co-authors of **SB 411**.

**CO-AUTHOR OF SENATE BILL 460**

On motion of Senator Shapiro and by unanimous consent, Senator Shapleigh will be shown as Co-author of **SB 460**.

**CO-AUTHOR OF SENATE RESOLUTION 249**

On motion of Senator Moncrief and by unanimous consent, Senator Haywood will be shown as Co-author of **SR 249**.

**SENATE BILLS ON FIRST READING**

The following bills were introduced, read first time, and referred to the committees indicated:

**SB 751** by Moncrief

Relating to restrictions on providing transportation for certain health care purposes.

To Committee on Health and Human Services.

**SB 752** by Moncrief

Relating to the disclosure of health care information.

To Committee on Health and Human Services.

**SB 753** by Harris, Ellis

Relating to the liability of the operator of a railroad.

To Committee on Economic Development.

**SB 754** by Harris

Relating to the statute of limitations applying to a lien on real property.

To Committee on Jurisprudence.

**SB 755 by Lucio**

Relating to the number of hours that an employer may require an employee to work; providing a penalty.

To Committee on State Affairs.

**SB 756 by Brown**

Relating to certain juror donations used to compensate victims of crime.

To Committee on Jurisprudence.

**SB 757 by Wentworth**

Relating to water quality protection zones.

To Committee on Natural Resources.

**SB 758 by Shapleigh, Barrientos, West**

Relating to the offense of criminal mischief involving graffiti and the regulation of customer access to aerosol paint.

To Committee on Criminal Justice.

**SB 759 by Armbrister**

Relating to the appraisal and ad valorem taxation of heavy equipment.

To Committee on State Affairs.

**SB 760 by Sibley**

Relating to the selection of telecommunications utilities by customers.

To Committee on Economic Development.

**SB 761 by Gallegos**

Relating to the regulation of Wall & Ceiling contractors; providing penalties.

To Committee on State Affairs.

**SB 762 by Gallegos**

Relating to survivor's benefits from certain municipal retirement systems for police officers.

To Committee on Intergovernmental Relations.

**SB 763 by Gallegos**

Relating to benefits from certain municipal retirement systems for police officers.

To Committee on Intergovernmental Relations.

**SB 764 by Ratliff**

Relating to certain environmental permitting procedures of the Texas Natural Resource Conservation Commission.

To Committee on Natural Resources.

**SB 765 by Ratliff**

Relating to appraisal for property tax purposes of open-space land that is converted to production of timber.

To Committee on State Affairs.

**SB 766 by Ratliff**

Relating to the exemption from the sales and use tax of certain machinery or equipment used in timber production.

To Committee on State Affairs.

**SB 767** by Ratliff

Relating to the application of the sales and use tax to certain materials used in commercial timber operations.

To Committee on State Affairs.

**SB 768** by Brown

Relating to the authority of the supreme court to adopt rules relating to the contractual relationship between an attorney and client.

To Committee on Economic Development.

**SB 769** by Armbrister

Relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

To Committee on Intergovernmental Relations.

**RESOLUTION SIGNED**

The President announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 92**

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Madla submitted the following report from the Committee on Nominations:

**TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE:**

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be COMMISSIONER OF INSURANCE: Elton Bomer, Travis County.

To be Members of the PARKS AND WILDLIFE COMMISSION: Ernest Angelo, Jr., Midland County; John Avila, Jr., Tarrant County; Carol E. Dinkins, Harris County.

To be PUBLIC COUNSEL FOR THE OFFICE OF PUBLIC INSURANCE COUNSEL: Roderick A. "Rod" Bordelon, Jr., Travis County.

To be COUNSELLOR OF THE OFFICE OF PUBLIC UTILITY COUNSEL: Suzi Ray McClellan, Travis County.

To be Members of the TEXAS COMMISSION ON THE ARTS: Malouf Abraham, Jr., M.D., Hemphill County; Doris Alexander, Randall County; Anne Lamkin Kinder, Harris County; Robert R. Lende, Bexar County; Mary Anne McCloud, Eastland County; Alyn Brown Morton, El Paso County; Idelle G. Rabin, Dallas County; Kathleen Birkner Stevens, Tarrant County; Constance M. "Connie" Ware, Harrison County.

To be Members of the BATTLESHIP "TEXAS" ADVISORY BOARD: Charles A. Alcorn, Harris County; Carol G. Calvert, Ellis County; Carter Casteel, Comal County; Thomas J. Perich, Fort Bend County; Quinton Rogers, Harrison County.

To be Members of the FAMILY PRACTICE RESIDENCY ADVISORY COMMITTEE: Loretta Banowsky, Bexar County; Lourdes Matiana Cuellar, R.Ph., Harris County.

To be Members of the STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS: Max Stanley Chartrand, Ph.D., Cooke County; Robert Komorn, M.D., Harris County; Carlos T. Oliveira, Webb County.

To be a Member of the TEXAS INCENTIVE AND PRODUCTIVITY COMMISSION: Sherry Laine Phelps, Denton County.

To be JUDGE OF THE 230th JUDICIAL DISTRICT COURT, HARRIS COUNTY: Belinda Joy Hill, Harris County.

To be Members of the TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS: Anna Beth Benningfield, Ph.D., Dallas County; Ellen Harrison, El Paso County; George P. Pulliam, Galveston County.

To be a Member of the TEXAS NATIONAL GUARD ARMORY BOARD: Michael G. White, El Paso County.

To be a Member of the TEXAS NATIONAL RESEARCH LABORATORY COMMISSION: Rolf R. Haberecht, Dallas County.

To be Members of the TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS: Gwendolyn L. R. Parker, Ector County; Jean E. Polichino, Harris County; Charles Paul Turco, Sr., Ph.D., Jefferson County.

To be Members of the TEXAS STATE BOARD OF EXAMINERS OF PERFUSIONISTS: H. B. Bell, Ed.D., Dallas County; Vincent R. Conti, M.D., Galveston County; Jose R. Ybarra, Bexar County.

To be a Member of the EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS: Martha Rodriguez, Bexar County.

To be Members of the TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS: Mark George Cowart, Ector County; Sheila S. Flannery, Rockwall County; Susan K. Tripplehorn, Gray County.

To be a Member of the SCHOOL LAND BOARD: C. Louis Renaud, Midland County.

To be Members of the STATE SEED AND PLANT BOARD: Aubrey James Allison, Ph.D., Swisher County; Dick Lindsey Auld, Ph.D., Lubbock County; W. David Worrall, Ph.D., Wilbarger County.

#### NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Madla gave notice that he would Monday, March 3, 1997, at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

**CAPITOL PHYSICIAN**

Senator Barrientos was recognized and presented Dr. David Pampe of Austin as the "Doctor for the Day."

The Senate welcomed Dr. Pampe, accompanied by Ellen Travis, a medical student, and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**COMMITTEE SUBSTITUTE  
SENATE BILL 128 ON SECOND READING**

Senator Haywood moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **CSSB 128** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended for **CSSB 128**:

**CSSB 128**, Relating to tuition and fees charged to military personnel enrolled in certain courses at Midwestern State University.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 128 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 128** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

**CSSB 128** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas

Thursday, February 27, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 47**, Honoring the Urban Management Assistants of North Texas.

**SCR 18**, Recognizing the 60th anniversary of the City of Brownsville's celebration of Charro Days.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**COMMITTEE SUBSTITUTE  
SENATE BILL 192 ON SECOND READING**

Senator Barrientos moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **CSSB 192** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended for **CSSB 192**:

**CSSB 192**, Relating to benefits under, eligibility for benefits under, and investment of surplus funds of retirement systems for firefighters in certain municipalities.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 192 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 192** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

**CSSB 192** was read third time and was passed by a viva voce vote.

**HOUSE CONCURRENT RESOLUTION 47**

The President laid before the Senate the following resolution:

**HCR 47**, Honoring the Urban Management Assistants of North Texas.

CARONA

The resolution was read.

On motion of Senator Carona and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**GUESTS PRESENTED**

Senator Carona was recognized and introduced to the Senate a delegation from the Urban Management Assistants of North Texas.

The Senate welcomed its guests.

**SENATE BILL 328 ON SECOND READING**

Senator Brown moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 328** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended for **SB 328**:

**SB 328**, Relating to the creation of the Judicial Compensation Commission.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 328** as follows:

(1) In SECTION 1, Section 35.103, Subsection (b), Subdivision (7), (page 5, line 5) strike "overall".

(2) In SECTION 1, Section 35.103, Subsection (b), Subdivision (7), (page 5, line 5) between "compensation" and "presently" insert "from the state".

(3) In SECTION 1, SUBCHAPTER B, (page 3, line 25 to page 4, line 7) strike Section 35.102 and renumber the subsequent sections appropriately.

The committee amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **SB 328** as follows:

In SECTION 1 (page 3, line 20) add Section 35.009 to read as follows:

"Section 35.009. OPEN MEETINGS AND OPEN RECORDS. The Commission is subject to Chapters 551 and 552."

The committee amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **SB 328** as follows:

In SECTION 1, SUBCHAPTER B, (page 3, lines 22 and 23) strike ", either in person or by teleconference,".



The committee amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 4**

Amend **SB 328** as follows:

In Section 1, Section 35.002 page 1, line 11 strike three and insert nine; and on page 1, line 13, substitute "three members" for "one member".

The committee amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 328** (page 3, lines 40 and 41) by striking "180th day after the date on which the report is delivered" and inserting "adoption of the General Appropriations Act for the subsequent biennium".

The amendment was read and was adopted by a viva voce vote.

**SB 328** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 328 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 328** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

**SB 328** was read third time and was passed by a viva voce vote.

**SENATE JOINT RESOLUTION 20 ON SECOND READING**

Senator Brown moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SJR 20** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended for **SJR 20**:

**SJR 20**, Proposing a constitutional amendment relating to the creation of a judicial compensation commission.

The resolution was read second time and was passed to engrossment by a viva voce vote.

**SENATE JOINT RESOLUTION 20 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 20** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

**SJR 20** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

(Senator West in Chair)

#### **SENATE BILL 460 ON SECOND READING**

Senator Shapiro moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **SB 460** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended for **SB 460**:

**SB 460**, Relating to the issuance of specially designed volunteer advocate program license plates by the Texas Department of Transportation.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **SB 460** as follows:

On page 1 line 12 after the word general and before the ., insert in consultation with the department

The committee amendment was read and was adopted by a viva voce vote.

**SB 460** as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 460 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 460** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

**SB 460** was read third time and was passed by a viva voce vote.

(President in Chair)

#### **GUESTS PRESENTED**

Senator Ratliff was recognized and introduced to the Senate the Longview High School Lady Lobos basketball team.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE  
SENATE BILL 476 ON SECOND READING**

Senator Madla moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **CSSB 476** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended for **CSSB 476**:

**CSSB 476**, Relating to certain criminal background information obtained by the Texas Commission on Alcohol and Drug Abuse.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 476 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 476** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Truan, Wentworth.

**CSSB 476** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**GAVEL PRESENTED**

The President announced that the vote on the final passage of **CSSB 476** marked the 15,000th vote cast by Senator Zaffirini. She has never missed a vote during her tenure as Senator.

In recognition of this accomplishment, the President congratulated Senator Zaffirini on behalf of the Senate and presented her with a gavel.

**MEMORIAL RESOLUTION**

**SR 256** - by Ellis: In memory of Minerva "Tweed" Higgins Swindle of Houston.

**CONGRATULATORY RESOLUTIONS**

**SR 257** - by Cain: Congratulating Willie Lee Campbell Glass of Tyler.

**SR 258** - by Cain: Congratulating David Dean of Terrell.

**SR 259** - by Cain: Congratulating Matt Whitt of Terrell.

**SR 260** - by Nelson: Congratulating Duncan DuVall of Flower Mound.

**ADJOURNMENT**

On motion of Senator Brown, the Senate at 12:10 p.m. adjourned until 11:30 a.m. Monday, March 3, 1997.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

February 27, 1997

**NATURAL RESOURCES — SB 326 (Amended), SB 633 (Amended),  
CSSB 634, CSSB 635, CSSB 636, CSSB 638**

**INTERGOVERNMENTAL RELATIONS — SB 157, SB 209, SB 327,  
SB 420, SB 472, SB 481, SB 544, SB 590**

**EDUCATION — SB 137, SB 138, SB 140, SB 523**